

REQUEST FOR COUNCIL ACTION

SUBJECT: DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION 15-145 APPROVING THE FIRST AMENDMENT TO THE PURCHASE AND SALE AGREEMENT BETWEEN WEST JORDAN 12, LLC, A UTAH LIMITED LIABILITY COMPANY, AND THE CITY OF WEST JORDAN.

SUMMARY: Under the terms of the Purchase and Sale agreement for the purchase of the Mountain States property, the initial due diligence period has expired. In light of the recent appraisal which could affect the purchase, the seller would like to offer a 30-day extension of the due diligence period to the City so that the appraisal can be more closely examined.

**FISCAL
IMPACT:** none

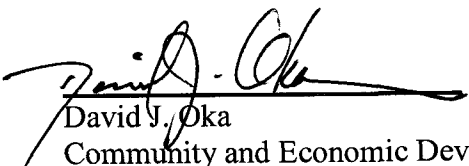
STAFF RECOMMENDATION:

In view of the appraisal and the lack of fiscal impact, staff recommends approval.

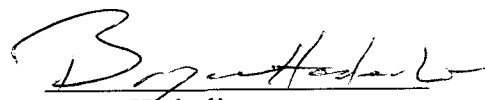
MOTION RECOMMENDED:

"I move to approve Resolution 15-145 approving the First Amendment to the Purchase and Sale Agreement between WEST JORDAN 12, LLC AND WEST JORDAN CITY and authorize the Mayor to execute the agreement.

Prepared by: David Oka


David J. Oka
Community and Economic Development Director

**Recommended by:
Bryce Haderlie**


Bryce Haderlie
Acting City Manager

BACKGROUND DISCUSSION: Under the terms and conditions of the Purchase and Sale Agreement for the purchase of the Mountain States building, the due diligence period ended on July 10, 2015. The City was obligated to state any exceptions to the transaction to the seller before the expiration of the due diligence period. On July 7, 2015, staff received the appraisal for the property. The appraised value is significantly lower than the sales price as written in the agreement. Accordingly, staff responded to the developer on July 9, 2015 stating that the appraisal (in addition to the condition of title and the timing for the payment) is an exception to the condition of the sale, in essence requiring the seller to cure. At this point, the City is not required to go forward with the purchase, however; the seller's brokers are asking for time to examine the appraisal to see if something has been missed.

The First Amendment to the Purchase and Sale agreement simply extends the due diligence date for an additional 30 days to August 13, 2015.

THE CITY OF WEST JORDAN, UTAH
A Municipal Corporation

RESOLUTION NO. 15-~~145~~

A RESOLUTION approving and adopting a FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT regarding the Mountain States building purchase agreement.

Whereas, the City Council has approval authority on significant agreements entered between the City and one or more third parties; and

Whereas, the seller has proposed to add 30 days to the due diligence period provided in the previously approved purchase and sale agreement, and to make other confirming amendments;

Whereas, the City staff supports the extended due diligence period and sees no adverse impact on the City from such an extension of time; and

Whereas, the City Manager endorses and recommends approval of the amended agreement,

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN, UTAH:

Section 1. The First Amendment to Purchase and Sale Agreement, in the form which is attached, be and is hereby adopted, approved and ratified by the City Council.

Section 2. The Mayor is instructed and empowered to sign the Amendment and deliver it for and in behalf of the City

Section 3. This resolution shall take effect immediately.

Adopted by the City Council of the City of West Jordan, Utah this 22nd day of July, 2015.

CITY OF WEST JORDAN

ATTEST:

By: _____
Mayor Kim V. Rolfe

Melanie Briggs, City Clerk/Recorder

Voting by the City Council

"AYE"

"NAY"

Jeff Haaga

Judy Hansen

Chris McConnehey

Chad Nichols

Sophie Rice

Ben Southworth

Mayor Kim V. Rolfe

**FIRST AMENDMENT TO
PURCHASE AND SALE AGREEMENT**

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT ("**Amendment**") is entered into as of the ____ day of July, 2015 by and between WEST JORDAN 12, LLC, a Utah limited liability company ("**Seller**"), and the CITY OF WEST JORDAN ("**Buyer**").

WHEREAS Buyer and Seller entered into that certain Purchase and Sale Agreement effective as of May 13, 2015 (the "**Purchase Agreement**"); and

WHEREAS Buyer and Seller desire to amend the Purchase Agreement as set forth herein,

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Capitalized Terms. Capitalized terms used but not defined herein shall have the meanings given them in the Purchase Agreement.

2. Due Diligence Period. Section 5(a) of the Purchase Agreement is hereby amended to extend the Due Diligence Period for a period of thirty (30) additional days. Buyer and Seller acknowledge and agree that, as extended, the Due Diligence Period shall expire on August 13, 2015 (the "**Extended Due Diligence Period**").

3. First Additional Period. The first sentence of Section 5(b) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

"Buyer shall have a period of sixty (60) days following expiration of the Extended Due Diligence Period (the "**First Additional Period**") in which to enter into a written agreement to purchase the Jordan School District property located at 7800 South Redwood Road and obtain approval for a reset date of RDA #6."

4. Remaining Provisions. All of the remaining terms, conditions and obligations contained in the Purchase Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties have executed this Amendment as of the date set forth above.

WEST JORDAN 12, LLC
a Utah limited liability company

CITY OF WEST JORDAN

By: _____
Its: _____

By: _____
Its: _____

Attest: _____
By: _____